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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,391	04/12/2004	Michael L. Howard	2291.2.18.1	2901

21552 7590 07/05/2005

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EXAMINER

SHECHTMAN, SEAN P

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/822,391

Applicant(s)

HOWARD ET AL.

Examiner

Sean P. Shechtman

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5 and 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/16/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1, 2, 4, 5 and 7-10 are presented for examination.

#### *Priority*

2. This application filed under former 37 CFR 1.62 lacks the necessary reference to the prior application. The current status of the parent nonprovisional application(s) should be included.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 4, 5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,977,515 to Rudden in view of U.S. Pat. No. 5,544,036 to Brown.

Referring to claim 1, Rudden teaches a curtailment module for enabling an energy provider to send a request to curtail energy use to a user, the curtailment module comprising:

a radio receiver for receiving the request from the energy provider through a network (Col. 5, lines 16-24; Col. 9, lines 45-57);

a processor in electronic communication with the radio receiver for receiving the request from the radio receiver (Col. 5, lines 25-61);

memory in electronic communication with the processor for storing a curtailment message and history data (Col. 5, lines 29-30; Col. 6, lines 1-30);

and a code generator stored in the memory and executable by the processor to generate a verification code, using the curtailment message and the history data as inputs, to verify compliance with the request (Fig. 11).

Referring to claim 2, Rudden teaches the curtailment module as defined in claim 1 wherein the memory is programmed with instructions to cause the curtailment module to receive the request from the energy provider (Col. 6, lines 1-29).

Referring to claim 4, Rudden teaches the curtailment module as defined in claim 1 further comprising a display in electronic communication with the processor (See figs. 1 and 2).

Referring to claim 5, Rudden teaches the curtailment module as defined in claim 1 further comprising an input device in electronic communication with the processor for enabling the user to enter a user input (Col. 5, lines 32-52).

Referring to claim 7, Rudden teaches the curtailment module as defined in claim 1, wherein the code generator uses a device ID in generating the verification code (Col. 9, lines 45-57; Col. 5, lines 53-61).

Rudden clearly teaches the code in the memory is used to determine if the customer is in compliance with an energy curtailment request (Col. 6, lines 30-37). Rudden clearly shows how

the code is recorded in the memory in figure 11. The record in memory is based on the message to turn off (i.e., curtailment message) and the power and time and date (history data) when this off event occurs (See Fig. 11). Rudden clearly teaches that the verification is conveyed, however fails to teach that it is conveyed audibly.

Referring to claim 1, Rudden teaches all of the limitations set forth above, however fails to teach that the radio receive is a paging module and the network is a paging network. Furthermore, Rudden fails to teach a sound component in electronic communication with the processor for outputting an audio verification, wherein the verification of compliance with the request is performed audibly.

Referring to claims 8 and 9, Rudden teaches all of the limitations set forth above, however fails to teach the sound component comprises a speaker and wherein the code generator causes DTMF/audio verification sound to be output through the speaker.

Referring to claim 10, Rudden teaches all of the limitations set forth above, however fails to teach the code generator further displays the verification code on a display after generating the verification code.

However, referring to claim 1, Brown teaches analogous art (title; Abstract), comprising: creating a curtailment request to send to the structure (Abstract, lines 18-28; Col. 3, lines 1-25); a paging module (Fig. 2, elements 32 and 46; Col. 3, lines 31-34) for receiving the request/message from the energy provider through a paging network (Col. 3, lines 31-34), and providing the request to a controller (Col. 5, lines 9-27), wherein auto-dial allows each control unit to perform certain tasks and report the results to a designated telephone number; and

a sound component in electronic communication with the processor generating audio from memory that responds appropriately to the then occurring memory operation instruction from the microprocessor (Col. 4, lines 4-34; Col. 6, lines 15-41, i.e., auto-dial allows each control unit to perform certain tasks and report the results to a designated telephone number; Col. 6, line 64 – Col. 7, line 12).

Referring to claims 8 and 9, Brown teaches analogous art, wherein the sound component comprises a speaker and wherein the code generator causes DTMF sound to be output through the speaker (Col. 3, lines 53- Col. 4, line 3; Col. 6, lines 37-41, i.e., report back to command center either automatically or on command, i.e., manually).

Referring to claim 10, Brown teaches analogous art, wherein the code generator further displays the verification code on a display after generating the verification code (Fig. 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made modify the teachings of Rudden with the teachings of Brown, to require the device of Brown to report it's status back to the command center automatically.

One of ordinary skill in the art would have been motivated to combine these references because Brown teaches that the telephone interface including the auto-dialer serves as a meter reading device, the results of which would be sent to the utility company to determine if energy was being used efficiently (Col. 28, 45-64 of '036). Furthermore, Brown teaches a system for controlling the use of energy including means for providing messages over a communications link, wherein each message including a code manifesting whether that message is globally addressed to each controller or whether the code is addressed to a specific controller thus improving communication with the controllers of the system (Col. 1, lines 52-67).

*Conclusion*

4. The prior art or art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents or publications are cited to further show the state of the art with respect to two-way communications with a Skytel pager for purposed of verifying that a curtailment command has been received and carried out.

U.S. Pat. No. 6,621,179 to Howard.

The following patents or publications are cited to further show the state of the art with respect to verifying compliance with a required power outage.

U.S. Pat. No. 6,799,091 to Bradford.

The following patents or publications are cited to further show the state of the art with respect to preventing over-consumption of a consumer.

U.S. Pat. No. 6,452,505 to Taglioni.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean P. Shechtman whose telephone number is (571) 272-3754. The examiner can normally be reached on 9:30am-6:00pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard can be reached on (571) 272-3749. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

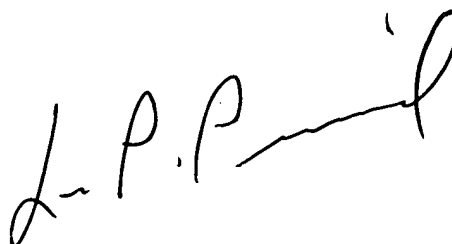
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SPS

Sean P. Shechtman

June 23, 2005

A handwritten signature in black ink, appearing to read "L. P. Picard", with a stylized flourish at the end.

LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100